

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAMES DARIO VIVAS YEPES,

ORDER
08 Civ. 08803 (GBD)

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.

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GEORGE B. DANIELS, District Judge:

Petitioner's motion, pursuant to 28 U.S.C. § 2255, dated October 16, 2008, entitled "Petition to Vacate Plea, Vacate Conviction and Dismiss Case", is denied.

A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); Jackson v. Albany Appeal Bureau Unit, 442 F.3d 51, 53 (2d Cir. 2006). As petitioner has not made such a showing, a certificate of appealability will not issue. Additionally, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. Coppededge v. United States, 369 U.S. 438 (1962).

Dated: New York, New York

November ___, 2008

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SO ORDERED:

George B. Daniels
GEORGE B. DANIELS
United States District Judge